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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,360	07/21/2005	Frank-Uwe Sommer	37934-211620	8218
26694	7590	08/28/2008		
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER KELLER, MICHAEL J	
			ART UNIT 3634	PAPER NUMBER
			MAIL DATE 08/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,360

Applicant(s)

SOMMER ET AL.

Examiner

Michael J. Keller

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. In Applicant's Amendment dated 07/01/2008, claims 1-4, 6, 7, 9, 10 and 13-15 have been amended, and claims 8 and 19 have been canceled. Examiner's rejections of claims 3-6, 13, 15 and 16 under 35 U.S.C. 112 are withdrawn. Examiner's rejections of claims 3-5 and 14-20 under 35 U.S.C. 102 are withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. In claim 12, the positive interlocking part is described as being "bayonet shaped" in line 2. The meaning of this term is unclear to the Examiner, and has been taken to mean that the part is literally shaped like a bayonet, having a blade on one end and a connecting piece on the other end. Further, it is not readily understood by the Examiner how a part which is shaped like a bayonet could be used to attach the traction means to the traction means tightening device. The claim has not been further treated on the merits.

Claim Rejections - 35 USC § 102

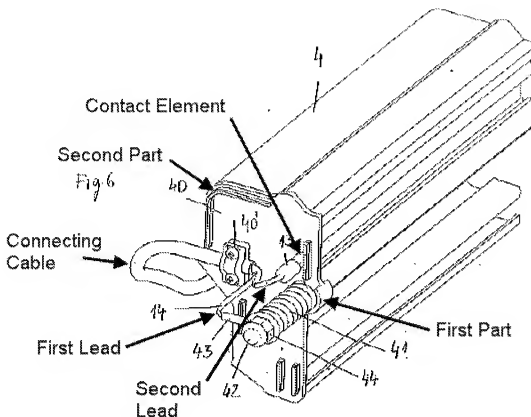
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3634

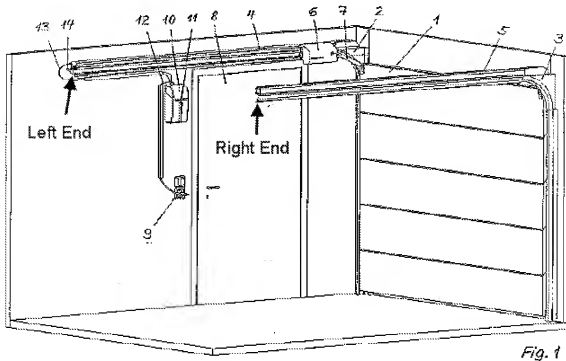
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1, 7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sommer et al. (DE 198 08 696).** Sommer et al. discloses [claim 1] a drive device for a door comprising: a guide rail (4,5) extending in a movement direction of the door, the guide rail having opposed first and second ends; a carriage (6) to move along said guide device and comprising an electric motor (21) to cause movement of a door leaf (1), and further comprising a current feed connecting the electric motor with a current source, the current of which is supplied at one end of the guide device (translation page 2 paragraph 1 lines 8-11); wherein said current feed comprises a first insert body (40) to be plugged into an end of the guide device and a connecting cable (see Fig. 6 below), wherein the first insert body is to be inserted optionally into either end of the guide rail (cover 40 is usable on the right and the left; translation page 2 paragraph 7 line 3).



Sommer et al. further discloses **[claim 7]** a drive device for a door, comprising:
 a guide rail extending in a movement direction of the door and having opposed first and second ends (see Fig. 1 below); a carriage (6) that moves along the guide rail and comprising an electric motor (21) for causing movement of a door leaf (1), further comprising a current feed to connect the electric motor with a current source, wherein the current feed comprises a traction mechanism (35) and a first insert body (40) to be plugged into the guide device, wherein the first insert body is to be inserted optionally into either end of the guide rail (cover 40 is usable on the right and the left; translation page 2 paragraph 7 line 3), wherein the first insert body includes a traction mechanism

tensioning device (41) with a positive interlocking part to lock in place the traction mechanism.



Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7, 9-11, 14-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser et al. (CH 678964) in view of Sommer et al. (DE 198 08 696). Kaiser et al. discloses [claim 1] a drive device for a door comprising: a drive

device for a door comprising: a guide rail (10) extending in a movement direction of the door; a carriage (18) to move along said guide device and comprising an electric motor (20) to cause movement of a door leaf (28), and further comprising a current feed connecting the electric motor with a current source, a first insert body (16) to be plugged into an end of the guide device, the insert body being arranged to be capable of being used at either end of said guide device; **[claim 2]** further comprising: a second insert body (16) without a connecting cable, said second insert body having a form corresponding to that of said first insert body so as to be plugged into an end of the guide rail into which said first insert body is not plugged; **[claim 6]** wherein the insert body has bores (16a) to be used for fastening said rail.

Kaiser et al. further discloses **[claim 7]** a drive device for a door, comprising: a guide rail extending in a movement direction of the door and having opposed first and second ends; a carriage (18) that moves along the guide rail and comprising an electric motor (20) for causing movement of a door leaf (28), further comprising a current feed to connect the electric motor with a current source, and a first insert body (16) to be plugged into the guide device, wherein the first insert body is to be inserted optionally into either end of the guide rail, wherein the first insert body includes a traction mechanism tensioning device (13) with a positive interlocking part to lock in place the traction mechanism (12); **[claim 9]** further comprising a second insert body (16) having a traction mechanism tensioning device (15) with a positive interlocking part to lock into place the traction mechanism; **[claim 10]** wherein the traction mechanism is tensioned between the traction mechanism tensioning devices of the first and second insert bodies

at the ends of the guide device; **[claim 11]** wherein the traction mechanism comprises a chain; **[claim 14]** wherein the guide rail forms a component of the current feed.

Kaiser et al. does not disclose a connecting cable at an end of the rail, feeding current to the motor through the rail and the traction means.

Sommer et al. discloses **[claim 1]** a drive device for a door comprising: a guide rail (4,5) extending in a movement direction of the door, the guide rail having opposed first and second ends; a carriage (6) to move along said guide device and comprising an electric motor (21) to cause movement of a door leaf (1), and further comprising a current feed connecting the electric motor with a current source, the current of which is supplied at one end of the guide device (translation page 2 paragraph 1 lines 8-11); wherein said current feed comprises a first insert body (40) to be plugged into an end of the guide device and a connecting cable (see Fig. 6 above), wherein the first insert body is to be inserted optionally into either end of the guide rail (cover 40 is usable on the right and the left; translation page 2 paragraph 7 line 3); **[claim 3]** wherein the current feed comprises said rail and a traction means (35), the traction means to be connected at one end of said rail with a connecting cable using a traction means tightening device (41), and wherein the first insert body further comprises a contact body to contact said rail; **[claim 4]** wherein the first insert body comprises a first part to carry the traction means tightening device, and a second part to provide an encircling abutment for an end of said rail; **[claim 5]** wherein the first part and the second part are integrally connected together (see Fig. 6 above).

Sommer et al. further discloses **[claim 7]** a drive device for a door, comprising: a guide rail extending in a movement direction of the door and having opposed first and second ends (see Fig. 1 above); a carriage (6) that moves along the guide rail and comprising an electric motor (21) for causing movement of a door leaf (1), further comprising a current feed to connect the electric motor with a current source, wherein the current feed comprises a traction mechanism (35) and a first insert body (40) to be plugged into the guide device, wherein the first insert body is to be inserted optionally into either end of the guide rail (cover 40 is usable on the right and the left; translation page 2 paragraph 7 line 3), wherein the first insert body includes a traction mechanism tensioning device (41) with a positive interlocking part to lock in place the traction mechanism; **[claim 11]** wherein the traction mechanism comprises a chain (35); **[claim 14]** wherein the guide rail (4,5) forms a component of the current feed; **[claim 15]** wherein the first insert body comprises: a first part to carry the traction mechanism tensioning device; and a second part to form an end stop at an end of the guide rail, the second part having an opening to permit accessing an adjustment device (44) of the traction mechanism tensioning device (see Fig. 6 above); **[claim 16]** wherein said adjustment device enables the positive interlocking part of the traction mechanism tensioning device to be adjusted in a longitudinal direction of the guide rail (translation page 2 paragraph 7); **[claim 17]** wherein the first insert body further comprises: a connecting cable; and one or more contact elements to make contact with the guide rail; **[claim 18]** wherein the traction mechanism tensioning device and the traction mechanism are connected to a first lead of the connecting cable (see Fig. 6 above);

[claim 20] wherein at least one said contact element is connected to a second lead of the connecting cable (see Fig. 6 above).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to provide the drive device of Kaiser et al. with the current feed of Sommer et al. in order to eliminate the need for components 45 and 46 by feeding current through the traction means, thereby reducing the number of parts and manufacturing costs.

9. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sommer et al. (DE 198 08 696) in view of Blodgett (U.S. Patent 1,981,026).** Sommer et al. discloses a driving device according to claim 7, as set forth above, but does not disclose that the positive interlocking part of at least one of the traction mechanism tensioning devices comprises a hook. Blodgett discloses a similar driving device wherein a chain is attached at both ends to a hook (page 1 lines 79-84). All the claimed elements were known in the prior art as evidenced above, and one of ordinary skill in the art could have combined the elements as claimed, or substituted one known element for another, using known methods with no change in their respective functions. Such a combination would have yielded predictable results to one of ordinary skill in the art at the time the invention was made, since the elements perform as expected and thus the results would be expected.

Response to Arguments

10. Regarding the rejections of claims 1, 7 and 11 under 35 U.S.C. 102, Applicant's arguments filed 07/01/2008 have been fully considered but they are not persuasive. The Examiner has interpreted the components 4 and 5 of Sommer as forming a single

rail, the two components being attached to one another by the wall structure. The ends of the rail are opposed in a direction perpendicular to the travel direction of the carriage.

11. Claims 3-5 have been amended to depend upon claim 2, therefore the rejections of those claims under 35 U.S.C. 102 are withdrawn.

12. Claims 14-18 and 20 have been amended to depend upon claim 9, therefore the rejections of those claims under 35 U.S.C. 102 are withdrawn.

13. Regarding the rejections of claims 1-7, 9-11, 14-18 and 20 under 35 U.S.C. 103, Applicant's arguments filed 07/01/2008 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant is correct in pointing out that the insert body of Kaiser is not a part of the current feed. However, the insert body of Sommer is a part of the current feed, and the insert bodies of both references are interchangeable between two rail ends. The combination therefore teaches all of the limitations of the claims.

14. Regarding the rejection of claim 13 under 35 U.S.C. 103, Applicant's arguments filed 07/01/2008 have been fully considered but they are not persuasive, because claim 7 is not patentable over Sommer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Keller whose telephone number is 571-270-5219. The examiner can normally be reached on Monday - Friday 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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